MICHIGAN GAMING CONTROL AND REVENUE ACT (EXCERPT)
Initiated Law 1 of 1996

432.207b Definitions; person considered to have interest in licensee or casino; contributions; exception.

Sec. 7b. (1) As used in this section:

(a) "Candidate" means both of the following:

(*i*) That term as defined in section 3 of the Michigan campaign finance act, 1976 PA 388, MCL 169.203.

(*ii*) The holder of any state, legislative, or local elective office.

(b) Except as provided in subsection (6), "committee" means any of the following:

(*i*) A candidate committee as that term is defined in section 3 of the Michigan campaign finance act, 1976 PA 388, MCL 169.203.

(*ii*) A political party committee as that term is defined in section 11 of the Michigan campaign finance act, 1976 PA 388, MCL 169.211.

(*iii*) An independent committee as that term is defined in section 8 of the Michigan campaign finance act, 1976 PA 388, MCL 169.208.

(*iv*) A committee organized by a legislative caucus of a chamber of the legislature.

(c) "License" means either a casino license issued under this act or a supplier's license issued under this act.

(d) "Licensee" means a person who holds a license as defined in subdivision (c).

(e) "Officer" means either of the following:

(*i*) An individual listed as an officer of a corporation, limited liability company, or limited liability partnership.

(*ii*) An individual who is a successor to an individual described in subparagraph (*i*).

(2) For purposes of this section, a person is considered to have an interest in a licensee or casino enterprise if any of the following circumstances exist:

(a) The person holds at least a 1% interest in the licensee or casino enterprise.

(b) The person is an officer or a managerial employee of the licensee or casino enterprise as defined by rules promulgated by the board.

(c) The person is an officer of the person who holds at least a 1% interest in the licensee or casino enterprise.

(d) The person is an independent committee of the licensee or casino enterprise.

(3) A licensee is considered to have made a contribution if a contribution is made by a person who has an interest in the licensee.

(4) A licensee or person who has an interest in a licensee or casino enterprise, or the spouse, parent, child, or spouse of a child of a licensee or person who has an interest in a licensee or casino enterprise, shall not make a contribution to a candidate or a committee during the following periods:

(a) The time period during which a casino licensee or development agreement is being considered by a city or the board.

(b) The term during which the licensee holds a license.

(c) The 3 years following the final expiration or termination of the licensee's license.

(d) During either of the following, whichever is shorter:

(*i*) The period beginning on or after the effective date of this amendatory act.

(*ii*) The period beginning 1 year prior to applying for a license.

(5) A licensee or person who has an interest in a licensee or casino enterprise, or the spouse, parent, child, or spouse of a child of a licensee or a person who has an interest in a licensee or casino enterprise, shall not make a contribution to a candidate or committee through a legal entity that is established, directed, or controlled by any of the persons described in this subsection during the time period described in subsection (4).

(6) This section does not apply to a ballot question committee as that term is defined in section 2 of the Michigan campaign finance act, 1976 PA 388, MCL 169.202.

History: Add. 1997, Act 69, Imd. Eff. July 17, 1997.

Popular name: Proposal E

ALLIANCE FOR JUSTICE

What does *Citizens United* mean for Tax-Exempt Organizations?

Tax-Exempt Status	Impact on Electoral Activities Post-*Citizens United*	Comments Made by Mike Trister and Holly Schadler During January 25th Phone Briefing
501(c)(3) Public Charities and Private Foundations	*Citizens United* deals only with the validity of federal (and state) campaign finance laws, and does not address federal tax law. Because federal tax law continues to prohibit partisan political activities by 501(c)(3)s, this case does not impact the electoral activities of 501(c)(3)s. 501(c)(3)s are permitted to engage in nonpartisan electoral activities. Go to http://bit.ly/axt5mY for more information on 501(c)(3)- permissible nonpartisan voter registration and engagement activities.	The federal tax law rules prohibiting 501(c)(3)s from supporting or opposing candidates remains fully intact after *Citizens United*. While some are speculating the Court's rationale opens up the possibility of a challenge to that prohibition, more (and likely lengthy) litigation would be necessary before any changes are made.
501(c)(4)s that qualify as Qualified Nonprofit Corporations (QNC) or "MCFLs"	The ruling lessens the significance of QNC status since it allows all corporations—both for-profits and nonprofits—to make "independent expenditures" ("IEs") and "electioneering communications" ("ECs"). Prior to *Citizens United*, only a special class of 501(c)(4) corporations (called QNCs or MCFLs) that did not accept any business or labor contributions (and met several other criteria) were able to make IEs in support of/opposition to federal candidates. An IE is a communication that urges the election or defeat of a candidate using words like "support," "oppose," "elect," "defeat," or "vote for" and is not coordinated with any candidate, political party or their agents. An EC is a broadcast communication that is distributed during the period close to an election and refers to a federal candidate.	QNCs are no longer unique in their ability to make IEs and ECs that are the "functional equivalent of express advocacy". Under *Citizens United*, nonprofit corporations will be able to make IEs without meeting the specific requirements of MCFL status.

501(c)(4) Corporations	All corporations may now use general treasury funds to make IEs and ECs (including those that are the functional equivalent of express advocacy) to the general public in federal elections. It no longer is *necessary* to do so from a connected PAC or qualify as a QNC/MCFL (see above). Although corporations can use general treasury funds to make IEs and ECs, the corporation must nonetheless comply with campaign disclosure and disclaimer requirements.[1] While federal, state and local election laws now permit 501(c)(4)s to fund IEs and ECs from the organization's general treasury, the corporation must also comply with the federal tax law. Under Federal tax law, partisan political activity may not be the "primary activity" of a 501(c)(4) organization; and (under some circumstances) the organization must pay tax on its political expenditures.[2] Therefore, even though *Citizens United* permits a 501(c)(4) to use general treasury funds to make independent expenditures, this activity cannot be the corporation's primary activity. Rather the primary activity of the organization must be educational, charitable, lobbying or other social welfare activities.	A connected PAC is no longer necessary in order to make IEs to support or oppose candidates for federal office. State and local governments that currently have a corporate ban on IEs and ECs will need to amend their law in accordance with *Citizens United*. Due to the interplay of federal tax and election laws, including the limitations on c4s partisan election activities, there may be other good reasons to conduct IEs and certain ECs from a connected PAC.
501(c)(5) – Labor Unions	The opinion in *Citizens United* does not directly address labor unions. However, the Court's opinion provides no reason to distinguish between unions and other corporations. As such, there is no doubt labor unions will be permitted to use general treasury funds for similar communications. Like 501(c)(4) corporations, labor unions must also comply with federal tax law.	Labor unions interested in making IEs in connection with 2010 elections may consider consulting with an attorney about doing so. Due to the interplay of federal tax and election laws, there may be other good reasons to conduct IEs and certain ECs from a

[1] See The Connection: Strategies for Creating and Operating 501(c)(3)s, 501(c)(4)s, and Political Organizations for an in-depth discussion of the specific rules.
[2] See The Connection for a discussion of these rules.

	Federal tax law requires that partisan activity not be the "primary activity" of a labor union; and (under some circumstances) the organization must pay tax on its political expenditures. Therefore, even though *Citizens United* permits a labor union to use general treasury funds to make IEs, this activity cannot be the union's primary activity.	connected PAC.
501(c)(6) – Trade Associations	All corporations may now use general treasury funds to make independent expenditures in federal elections. It is no longer *necessary* to do so from a connected federal PAC. Like 501(c)(4) corporations, trade associations must also comply with federal tax law. Under Federal tax law, partisan political activity may not be the "primary activity" of a trade association; and (under some circumstances) the organization must pay tax on its political expenditures.[3] Therefore, even though *Citizens United* permits a trade association to use general treasury funds to make IEs, this activity cannot be the trade association's primary activity.	Due to the interplay of federal tax and election laws, there may be other good reasons to conduct IEs and ECs from a connected PAC.
Separate Segregated Funds/ Connected PACs (federally registered)	All federally registered political organizations may continue to make IEs and must continue to comply with the FEC's reporting rules.	Connected federal PACs will continue to be useful because a PAC: (1) may make direct and in-kind contributions to federal candidates (which may not be made from general corporate treasury funds), and (2) unlike a 501(c)(4) or other exempt organization, is not limited in the amount of partisan electoral activity it may conduct. However, existing federal law limits the amount of money raised into a federal PAC and imposes complex

[3] See The Connection for a discussion of these rules.

		disclosure rules. Nonprofits interested in setting up or operating a connected PAC should consult with an attorney or the FEC first.
527s (non-federally registered)	527 organizations, including incorporated 527s and 527s that receive corporate and labor funds, may make independent expenditures in connection with federal or state elections. These organizations must still comply with federal and/or state registration and reporting rules and federal tax law.	It is important to consult federal and/or state campaign finance laws to be aware of any rules or limits on 527 organizations.

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